

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

O.A./L.A./CCA No. 1301/02

Date of decision _____

Pramod Kumar Sachan _____ Applicant(s)

Sri I. P. Srivastava _____ Counsel for the applicant(s)

Versus.

U.O.I & Ors. _____ Respondents(S)

Sri R. K. Tewari & Sri S. Singh _____ counsel for the respondent(s)

CORAM

Hon'ble Mr. Ashok S. Karamadi V.C./Member(J)

Hon'ble Mr. K. S. Menon _____ Member (A)

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether their Lordship wish to see the fair copy of the judgment?
4. Whether to be circulated to all Benches?

SIGNATURE

Manish/-

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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1301 OF 2002

ALLAHABAD THIS THE 9th DAY OF June 2007

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J
HON'BLE MR. K. S. MENON, MEMBER-A

Pramod Kumar Sachan,
Son of Shri Kundan Lal Sachan,
Resident of Village Makrandapur,
Post Gurgaon,
District-Kanpur Dehat.

..... .Applicant

By Advocate : Sri I. P. Srivastava

Versus

1. Union of India
through the Secretary,
Ministry of Communication,
Department of Post, New Delhi.
2. Director Postal Services Kanpur-208001.
3. Senior superintendent of Post Officers,
Kanpur City Division.
4. Superintendent Circle Stamp Depot,
Kanpur Nagar-1.
5. Post Master General Kanpur Region, Kanpur.

..... .Respondents

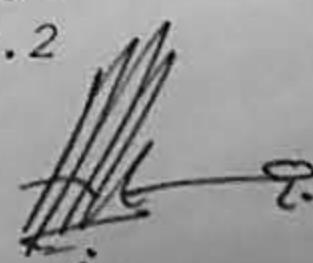
By Advocate : Sri R. K. Tewari & Shri S. Singh

O R D E R

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J

This Original Application has been filed for
seeking the following reliefs:-

"i) This Court may be pleased to quash the
impugned orders dated 05.11.1997, 29.09.2000
passed by the Senior Superintendent of Post
Offices Kanpur City Division Kanpur
(Annexure No.13 and 18 to this Original
Application (compilation-I) and order dated
14.08.2002 passed by the Director Postal
Services Kanpur, the respondent no.2



(15)

(Annexure No.20 to this original Application-Compilation-I).

ii) This Court may be pleased to issue a direction commanding the respondents to allow the applicant to function and pay the salary and arrears of salary forthwith."

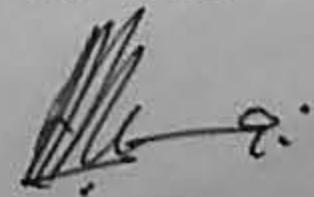
2. The brief facts of the case as pleaded by the applicant in the O.A. that the applicant was appointed as Postal Assistant on 18.08.1981 and transferred from Allahabad to Kanpur in the year 1990 and has worked as Office Assistant in Divisional Office Kanpur from January 1995 to April 1995. After relieving from Allahabad he was again given charge of Postal Assistant (stock) in Kanpur. On 17.04.1996 the applicant went on sanctioned casual leave with permission to leave headquarter and later on he fell ill and he took medical leave till 31.05.1996. After becoming medically fit he joined on 01.06.1996 on the post of Postal Assistant in Kanpur. Photo state copy of the joining report certificate is filed as Annexure-1 to the OA. When the applicant went to take his salary for the month of April, then he was informed that his salary was not sanctioned due to the reason that the respondent no.3 had declared the leave period from 17.4.1996 to 30.04.1996 as leave without pay, so he filed representation dated 01.06.1996 filed as Annexure -2. On 05.06.1996 the applicant communicated his grievances to the Superintendent Circle Stamp Depot Kanpur and Post Master General Kanpur who did not pay any heed to his request. Photo state copy of the same is annexed herewith as Annexure-3. On 07.06.1998 applicant filed his



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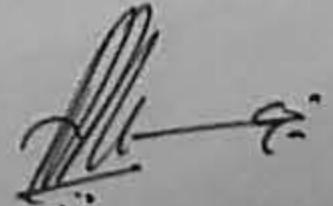
representation stating therein he had to get his wife's Gall Bladder operated and that would need money. Photo state copy of the representation is being filed herewith as Annexure-4. On 08.06.1996 the applicant approached the Post Master General Kanpur Region Kanpur and communicated all his grievances to him and requested for payment of his salary, and allow him to function in his office when respondents failed to hear his requests left with no alter motive he approached the Tribunal.

3. On notice the respondents have filed the counter affidavit and stated that the impugned orders have been passed after enquiry and affording full opportunity to the applicant in accordance with rules and there is no illegality and as such the applicant is not entitled for any relief. That the period of medical leave expired on 04.05.1996 and he was due to resume his duties on 05.05.1996 but he again remained absent from 05.05.1996 to 31.05.1996 and attended the office on 01.06.1996 and submitted medical certificate from 03.05.1996 for 28 days. The entire period of absence from 17.04.96 to 31.05.96 was ordered to be treated as, 'DIESNON' under rule 25(2) of the CCS (Leave) Rules 1972 by the Superintendent CSD Kanpur and thereafter the applicant has filed the OA NO.974/96 which is pending. The Superintendent CSD Kanpur relieved the applicant from CSD Kanpur on the administrative grounds vide his memo dated 06.06.1996 directing the applicant to attend the office of the



(17)

Senior Superintendent of Post Offices, Kanpur and also requested the Senior Superintendent of Post Offices to issue posting order to the applicant. The applicant was transferred from CSD Kanpur and posted as PAHNS Nagar Post Office vide memo dated 07.06.1996. The applicant did not resume his duties as PAHNS Nagar Post Office and absented himself without any information either to SPM HNS Post Office or to the Senior Superintendent of Post Offices City Division, Kanpur and as such he was proceeded against for minor punishment under rule 16 of CCS (CCA) Rules 1965 vide memo dated 15.05.1997 and was awarded minor punishment for reduction to the initial stage of the scale for a period of three years without effecting future earned increments and the period from 06.06.1996 to 30.09.1997 was ordered to be treated as 'DIESNON' due to unauthorized absence vide memo dated 05.11.1997. The applicant has not filed any appeal challenging the said order before any court earlier then by filing this OA and therefore this OA so far it relates to order dated 05.11.1997 is not maintainable as time barred. As the applicant has not joined the duties at HNS Nagar Post Office, therefore, he was proceeded with and was served charge sheet under rule 14 for the major penalty vide memo dated 10.09.1998 delivered to him on 11.09.1998 and finally the punishment was awarded of removal from service vide memo dated 29.09.2000 delivered to him on 21.10.2000, against the same the applicant has not preferred the appeal but filed the OA no.1488 of 2001 before this Tribunal,



(18)

this Tribunal has directed the applicant to file an appeal against the said order, and the said appeal the appellate authority shall decide within a period of three months. The applicant filed the appeal on 30.04.2002 to the Director Postal Services, on the receipt of the same the appellate authority after considering the grounds raised in the appeal and also considering the entire records relating to the applicant rejected the appeal by the order dated 14.08.2001. It is further stated that the unauthorized absence in duty is grave misconduct on the part of the applicant and as such the disciplinary action are initiated and culminated in the final orders passed by the Disciplinary Authority and affirm by the Appellate Authority. On these facts sought for dismissal of the application.

4. The applicant has filed the Rejoinder Affidavit and stated that the absence of the applicant was reasonable and medical certificates were submitted therefore the period of absence illegally and wrongly ordered by the respondents, denying other contentions raised by the respondents reiterated his contention and stated that the letter dated 06.06.1996 was never shown to the applicant and the same was fabricated for the purposes of the case in order to defeat the contentions of the applicant and he came to know the order dated 07.06.1996 when the Counter Affidavit was filed in OA no.974/96, and with regard to relieving order and the transfer order are not in accordance



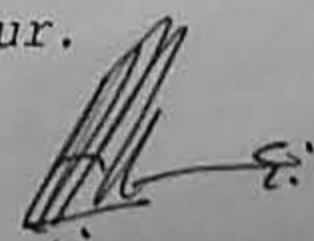
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with law, and the enquiry was ex parte and no relevant evidence was given to the applicant and, therefore, the whole proceedings against the applicant are vitiated deserves to be quashed.

5. We have heard the learned counsel for the applicant perused the pleadings and the materials on record. The learned counsel for the applicant contends that the applicant has not given any opportunity, and not supplied the documents asked by him, and the penalty imposed against the applicant is a disproportionate one. In view of the charge sheet dated 10.9.1998 the enquiry has held against the applicant. The contention of the learned counsel, which was raised in this OA, is similar in nature the grounds urged before the appellate authority. The Appellate Authority has considered the grounds urged by the applicant in detail and given the reason for the same which are as under:-

"I) The contention of the appellant is incorrect and misleading. He was ordered by the Supdt. Circle Stamp Depot, Kanpur vide memo no.B/transfer/96 dated 6.6.96 to be relieved from his office on administrative ground and directed to obtain posting order from Sr. Supdt. Of Post Offices, Kanpur City Division, Kanpur. The appellant was posted as Postal Asstt. Hariharnath Shashtrinagar Post Office, Kanpur City Division vide SSPOs, Kanpur City Dn. Memo no.B/21/transfer/96-97 dated 7.6.96.

ii) The office of Supdt. Of CSD, Kanpur is headed by a Group 'B' officer. The staff to CSD Kanpur is provided by the SSPOs, Kanpur City Dn., Kanpur as per the administrative arrangement and, therefore, SSPOs, Kanpur City Dn. Being the appointing authority is the disciplinary authority under Rule 14 of CCS(CCA) Rules 1965 for the Postal Asstt. Cadre who are on deputation to CSD Kanpur.



(20)

The Supdt. CSD is lower in rank than SSPOS, Kanpur City Dn. Therefore, Supdt. CSD Kanpur can not take disciplinary action under Rule 14 against the staff of SSPOS, Kanpur City Dn and hence the contention of the appellant that SSPOS Kanpur City is not the disciplinary authority of the appellant. Rule 14 is incorrect and baseless.

iii) The charge sheet dated 10.9.98 has been issued by the competent appointing authority based on the nature of act committed by the appellant. The earlier charge sheet under Rule 16 of CCS (CCA) Rules 1965 dated 28.5.1997 relates to an earlier period.

iv) The assertion put forth by the appellant is incorrect and unconvincing. The appellant belongs to Kanpur City Dn., therefore, the SSPOS, Kanpur City Dn. Being the competent appointing authority as well as disciplinary authority vested with statutory powers for the staff of Kanpur City Dn. Can issue charge sheet and take disciplinary action as the official was relieved from CSD on 6.6.96 and posted as Postal Asstt., Hariharnath Shashtrinagar Post Office Kanpur on 7.6.96.

v) The argument given by the appellant is no sustainable because the instructions dated 6.6.88 do not bar for initiation of major penalty proceeding.

vi) The contention is not tenable, as the appellant has not narrated the facts, which show that the rules mentioned in the charge sheet are not applicable on the appellant.

vii) It is incorrect that the inquiry was held on 1.6.1999. However, proceeding sheet dated 17.3.1999 does not indicate that any request for the supply of transfer order was made by the appellant during the inquiry.

viii) The contention made by the appellant is incorrect as the inquiry Officer and Presenting Officer was appointed by the competent disciplinary authority.

ix) As already stated above the appellant belongs to Kanpur City Division, therefore, his contention that the SSPOS, Kanpur City Dn. Can not take disciplinary action unless he actually joins under his control, is incorrect and improper. Since the appellant has been proceeded under Rule 14 by the competent authority, therefore, action is in order.



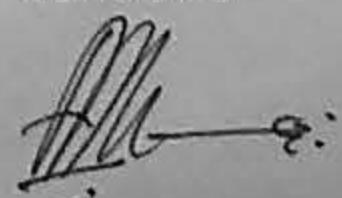
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x) It is incorrect that the SSPOs, Kanpur City Dn issued charge sheet on 10.9.98 and passed order arbitrarily and willfully against the law. Since the appellant belongs to Kanpur City Dn, therefore, SSPOs can issue charge sheet under rule 14. The appellant was provided every opportunity to defend his case during the inquiry but the appellant willfully did not participated in the inquiry except on 17.3.1999. He was also provided a copy of the inquiry report on 26.6.2000. The appellant while receiving the inquiry report made a remark that exparte decision is great displeasure to him as the matter is already with CAT, Allahabad. The appellant further noted in the receipt that "Your hour is free to adopt coercive measures. Refuse to acknowledge any departmental decision". Actually no matter relating to this case is pending before Hon'ble CAT, Allahabad.

9. It is clear from what has been discussed in preceding paragraphs that the appellant has not uttered a single word about the charges leveled against him. This proves that appellant remained absent from duty unauthorisely and continuously. The appellant has failed to disprove his guilt and grounds made in no way deserve consideration.

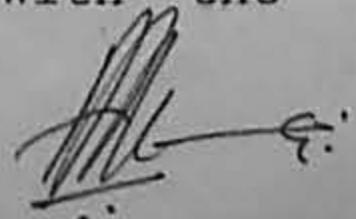
10. In exercise of powers vested under rule 27 of CCS (CCA) Rules, 1965, the punishment of removal from service awarded by disciplinary authority on 29.9.2000 is upheld and appeal is rejected".

6. It is an admitted fact that the applicant went on leave and subsequently he has produced the medical certificate for the period in question and during that period he was transferred from service on administrative grounds vide memo dated 6.6.96 directing the applicant to attend the office of the Senior Superintendent of Post Offices Kanpur and also requested that Senior Superintendent of Post Offices to issue posting order to the applicant and posted as PA HNS Nagar Post Office vide memo dated 7.6.1996, on the other hand the applicant has not joined the duties as PA HNS Nagar Post Office and absented himself



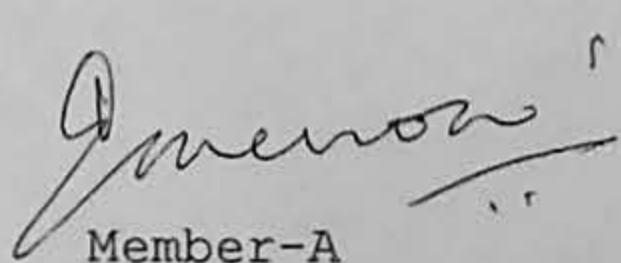
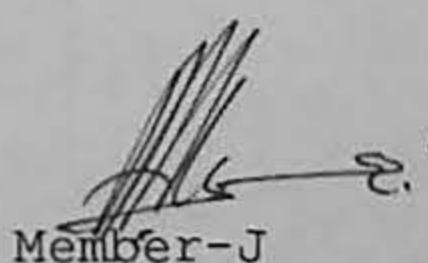
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without any information either to the SPM HNS Post Office or to the Senior Superintendent of Post Offices City Division Kanpur, and, therefore, the charge sheet was issued and the enquiry was held. For this the applicant's contention is that he has not given the order dated 07.06.1996 and further stated that the absence of the applicant is reasonable as he became ill and medical certificates were submitted and, therefore, the period of absence is not legal one, and cannot be accepted having regard to the fact that the applicant has himself stated that he was absent to the office but later on he come forward with a statement that he has produced the medical certificate, and further in view of the transfer order he has not joined the transfer post, on the other hand he has stated that in order to support their version the respondents have produced the memo dated 06.06.1996 and 07.06.1996 as the same was never received by the applicant and proceeded against the applicant. All these things put together from the facts and circumstances narrated earlier clearly goes to show that the enquiry conducted against the applicant is in accordance with the rules by giving an opportunity to the applicant the enquiry was held and the materials on record clearly goes to show that the enquiry held against the applicant is not an arbitrary and illegal one and, therefore, the contention of the applicant cannot be accepted. As even otherwise the contention raised by the applicant before the appellate authority, the said authority has dealt with the



(23)

contention of the applicant by considering the materials and the facts and circumstances of the case has passed a just and proper order rejecting the appeal of the applicant, in that view of the matter, we do not find any reasons to interfere with the orders passed by the authorities concerned and, therefore, the applicant has not made out a case for interference in the impugned orders, what is expected by the authorities conducting the enquiry is that the overall taking into the facts and circumstances and the materials on record by their application of mind for the same have to decide the issue in controversy in a just and proper manner by affording an opportunity to the party concerned if that principle is taken into consideration and the orders are passed by the authorities concerned in that event the scope for interference by us, is very limited, in the instant case the impugned orders are not suffered from any illegality or irregularity which are resulted in the miscarriage of justice, and, therefore, we do not find any reasons for interference, and accordingly, this OA is devoid of merits and the same is accordingly dismissed.


Member-A
Member-J

/ns/